

REMARKS

The Office Action of August 24, 2006 has been reviewed and these remarks are responsive thereto. Reconsideration and allowance of the instant application are respectfully requested. Claims 1-20 remain pending in this application. Claims 1 and 17 have been amended and new claims 19 and 20 have been added. No new matter has been added.

Claim 1 is Allowable over Flatt

Claims 1-3, 6, 9 and 12-18 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Flatt. Applicant respectfully traverses this rejection.

Claim 1 recites, among other features:

a drive system for imparting motion to a treating implement having a head, the head including a treating instrument that is separately moveable from the head and having implement elements, the drive system comprising: ...a drive shaft having a drive end and a driven end, said drive end being freely mounted in said cam track, said drive shaft extending through said control slot and through said hole in said pivot member, said driven end being operatively mounted to said drive connection of said implement head to cause said treating instrument to move, independently of the head, in response to movement of said drive shaft.

Flatt describes an electrically operated toothbrush having a cylindrical portion into which a toothbrush is mounted via a threaded connection. Col. 1, lines 66-72. Flatt further describes a drive system in which a rotating disc imparts an orbital path to a rod connected to a head. The orbital path is translated into an upward and downward motion of the toothbrush. Col. 2, lines 42-58.

Flatt fails to teach or suggest all the features of claim 1. Specifically, Flatt fails to teach or suggest a head with including a treating instrument that is separately moveable from the head. Further, Flatt fails to teach or suggest a drive shaft having a driven end that causes a treating instrument to move independently of the head. Rather, Flatt describes a drive system wherein the toothbrush stem and head move as a single unit in an upward and downward motion. Accordingly, Applicant respectfully asserts that claim 1 is allowable.

Applicant further notes that “[f]or a prior art reference to anticipate a claim, the reference must disclose each and every element of the claim with sufficient clarity to prove its existence in the prior art.” *Motorola, Inc. v. Interdigital Tech. Corp.*, 43 USPQ 2d 1481, 1490 (Fed. Cir. 1997). In view of the foregoing, Flatt clearly lacks each and every feature as recited in claim 1. Accordingly, claim 1 is allowable over Flatt for at least the noted reasons.

Claims 2-18 that depend from claim 1 are allowable for at least the same reason as claim 1 and further in view of the novel features recited therein.

Rejections Under 35 U.S.C. § 103

Claims 4, 5, 7, 8, 10 and 11 stand rejected under 35 U.S.C. § 103(a) as being unpatentable. When evaluating patentability under 35 U.S.C. § 103(a), all claim features must be considered, especially when they are missing from the prior art. *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988) (Federal Circuit held a reference did not render the claimed combination obvious because the examiner ignored a claimed feature that was absent from the reference).

Claims 4 and 5 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Flatt in view of Lev. Claims 4 and 5 depend from claim 1 and are allowable for at least the same reason as their base claim, and further in view of the novel features recited therein. Lev fails to cure the deficiencies of Flatt with respect to claim 1. Accordingly, the combination of Flatt and Lev, even if proper, fails to teach or suggest all the features of claim 1. Applicant respectfully asserts that claims 4 and 5 are allowable.

Claims 7 and 8 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Flatt in view of Stemme. Claims 7 and 8 depend from claim 1. The addition of Stemme fails to cure the deficiencies of Flatt with respect to independent claim 1. Accordingly, Applicant respectfully asserts that claims 7 and 8 are allowable for at least the same reason as claim 1 and further in view of the novel features recited therein.

Claim 10 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Flatt in view of Prineppi. Claim 10 depends from claim 1 and is allowable for at least the reason cited for claim 1. The addition of Prineppi fails to cure the

deficiencies of Flatt. Accordingly, Applicant respectfully asserts that claim 10 is allowable.

Claim 11 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Flatt in view of Stoltz. Claim 11 depends from claim 1 and is allowable for at least the reason cited for claim 1, and further in view of the novel features recited therein. The addition of Stoltz fails to cure the deficiencies of Flatt. Accordingly, Applicant respectfully asserts that claim 1 is allowable.

New Claims

New claim 19 recites, among other features, a drive system for imparting motion to a treating instrument on a treating implement, comprising:

a head having the treating instrument rotatably mounted thereon, wherein the treating instrument moves independently of the head; ...a drive shaft having a drive end and a driven end, said drive end being freely mounted in said cam track, said driven end being operatively mounted to said drive connection of said head to cause said treating instrument to move in response to movement of said drive shaft, said drive shaft being disposed along an axis which differs from and is at an angle to said cam axis of rotation, said control slot controlling the path of movement of said drive shaft whereby rotation of said cam causes said drive end to move in said cam track in response to the location of said drive shaft in said control slot with said drive shaft pivotally moving through said pivot member as said drive end travels in said cam track while said drive shaft slidably moves in said control slot to transmit the pivotal movement of said drive shaft to said driven end and to said drive connection for moving at least a portion of said treating instrument.

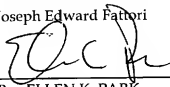
None of Flatt, Lev, Stemme, Prineppi or Stolz, alone or in combination, teach the recited features of claim 1. For instance, none of the cited references teach or suggest a drive system including a head having a treating instrument rotatably mounted thereon and a drive shaft having a drive end freely mounted in a cam track and a driven end for moving at least a portion of the treating instrument. Accordingly, Applicant respectfully asserts that claim 19, as well as claim 20 that depends from claim 19, is allowable.

CONCLUSION

It is respectfully submitted that this application is in condition for allowance. If any additional fees are required or if an overpayment has been made, the Commissioner is authorized to charge or credit Deposit Account No. 03-2455.

Respectfully submitted,

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